

ISSUE DATE: July 17, 1996

DOCKET NO. P-5024/CT-94-386;
P-5024/NA-94-387

ORDER ACCEPTING SETTLEMENT WITH MODIFICATION, GRANTING
CERTIFICATE OF AUTHORITY, AND CLOSING DOCKETS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs
Marshall Johnson
Dee Knaak
Don Storm

Chair
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Global
Tel*Link Corp. for a Certificate of Authority

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PROCEDURAL HISTORY

On April 24, 1994, Global Tel*Link Corporation (Global or the Company) submitted an application for authority to provide coin telephone, long distance, and operator services, including store and forward service, in Minnesota.

On May 8, 1996, the Department of Public Service (the Department) filed comments recommending Commission approval of the application subject to certain conditions.

On May 30, 1996, Global filed reply comments.

On June 4, 1996, the Department and Global filed a Joint Motion to Approve Settlement, Approve Application for Authority, and Close Docket.

The matter came before the Commission for consideration on July 2, 1996.

FINDINGS AND CONCLUSIONS

I. FACTUAL HISTORY

On April 1, 1993, Schlumberger Technologies, Inc. (Schlumberger) purchased Global.

In the fall of 1993, Schlumberger discovered that Global may have been overcharging for certain telephone services. Schlumberger retained outside counsel to conduct a legal audit of Global's business practices; the audit verified the existence of certain overcharging practices.

In January, 1994, Global halted the overcharging practices. In February, 1994, the Company

discharged the employees responsible for the overcharging and installed new management. The new management learned that, contrary to representations made by Global at the time of the acquisition by Schlumberger, Global was providing service in Minnesota without a certificate of authority.

In March, 1994, Global informed the Department that the Company had overcharged customers on a regular basis and had operated without certification.

On April 21, 1994, Global submitted an application for a certificate of authority. Since that time, the Department and Global management have been working together to investigate Global's prior and present operations in Minnesota.

In January, 1996, Global began providing refunds with interest to all consumers who had been overcharged on calls originating in Minnesota.

In the Department's May 8, 1996 comments, the Department mentioned an Alabama class action suit against Global regarding Global's overcharging practices (the Britt suit). The Department stated that a December 6, 1995 decision in the Alabama proceeding required Global to reimburse certain Minnesota customers a total of \$82,466, plus interest. In January, 1996, Global reimbursed the 5,142 Minnesota aggrieved customers who could be located a total of \$41,536, plus interest. The Britt court stated that remaining unclaimed refunds may be distributed by:

1) a prospective rate reduction; 2) a payment to a prisoners' fund, a low income consumer fund, a consumer intervenor group, or a consumer telephone information source; or 3) a payment to a fund which otherwise benefits consumers affected by Global's overcharging.

In its May 8, 1996, comments, the Department stated that Global has supplied the necessary information for an application for authority and has demonstrated sufficient financial resources. The Department recommended approval of Global's application. At the same time, the Department stated that Global had violated relevant statutes and Commission Orders on numerous occasions and in a number of ways. The previous violations included:

- providing telephone service without authority
- violating rate caps
- violating the call branding requirement
- Schlumberger's acquiring Global without Commission approval
- charging rates without first notifying the Department
- violating the positive acceptance requirement
- failing to pay assessments to the State

In its May 30, 1996, reply comments and in statements at the July 2 hearing, Global argued that it did not knowingly or intentionally violate statutes or Commission Orders or rules. The Company explained that the violations were nearly entirely committed by Global's previous management. When Schlumberger acquired Global, Schlumberger was inexperienced in regulatory matters and was assured by Global management that all regulatory certification and practices were in order. When it learned that the Company was uncertified and engaging in

improper conduct, the new Global management immediately conducted an extensive legal investigation, informed the Department, cooperated fully with Department investigations, implemented refunds where possible, corrected the improper procedures, and applied for a certificate of authority to do business in Minnesota. Global asked the Commission to accept the parties' settlement agreement, to forego any pursuit of civil penalties, and to grant the Company's application for a certificate of authority.

II. THE SETTLEMENT AGREEMENT

The parties reached a settlement which they believed would resolve all outstanding issues regarding Global's regulatory practices. The main elements of the settlement include the following:

- the Department requests that the Commission approve Global's application for authority; Global will then file a petition for post-acquisition approval of Schlumberger's purchase of assets
- Global will pay whatever refund remains undistributed from the Britt action in equal parts to prisoners' funds operated by Minnesota inmate facilities where overcharging occurred
- Global will pay \$11,000 into the State of Minnesota general fund as compensation for its prior actions
- Global will submit a plan to the Commission and the Department for reducing the Company's rates on a going forward basis for a specified period of time to deliver \$3,348.80 in compensation (for consumer charges above tariffed rates)
- Global will track the functioning of its positive acceptance feature at its telephone sites, perform on-site testing in response to any complaint, and report to the Department
- Global will pay the appropriate assessments on its total gross jurisdictional operating revenues
- the Department and Global request that the Commission approve the terms of the settlement and close the dockets without referring any issues to the Office of Attorney General for pursuit of civil penalties

III. COMMISSION ACTION

Four issues emerge from the history of this docket and the parties' effort to settle the issues. First, has Global demonstrated that it should be granted a certificate of authority to serve in Minnesota? Second, has Global made the appropriate compensation to those affected by its past actions in Minnesota; are aggrieved parties made as whole as possible? Third, does the settlement distribute the unclaimed Britt refund in an appropriate fashion? Fourth, should this matter be referred to the Office of Attorney General for the pursuit of civil penalties or not?

A. Global's Certificate of Authority

Global has filed the necessary information and has demonstrated that it has sufficient financial resources to provide service in Minnesota. Since Global determined that its predecessor in interest was providing unauthorized and improper service, Global has fully investigated the matter, reported improprieties to the proper authorities, attempted to make its customers whole, cooperated fully in the Department's investigation, and rectified the regulatory improprieties. The Department has recommended that Global be authorized to provide service.

The Commission finds that Global should be granted a certificate of authority to provide service in Minnesota.

B. Compensation

Global began refunding aggrieved Minnesota customers in January, 1996. In the settlement, Global has agreed to distribute unclaimed Britt refunds, compensate the state general fund for prior improprieties, reduce rates to compensate for prior overcharges, and fully pay assessments on its total gross jurisdictional operating revenues.

The Commission finds that Global has agreed to appropriate compensation for past regulatory improprieties. The Company has attempted to make consumers affected by its prior overcharges as whole as possible.

C. Britt Distribution

In the settlement, Global agreed to distribute unclaimed Britt refunds to prisoners' funds operated by the Minnesota inmate facilities in which the Company imposed overcharges. This is one of the refund options specifically sanctioned by the Britt decision.

D. Civil Penalties

Although Global has violated Commission statutes and Orders, the present ownership of the Company has made a significant effort to bring its operations into full regulatory compliance and to compensate aggrieved parties. The parties to the settlement agree that the Company's current operations do not warrant referral to the Office of Attorney General for civil penalties. The Commission concurs.

IV. CONCLUSION

The Commission agrees with the principles of the parties' settlement and will approve it with one modification. Upon Global's disbursement of the unclaimed refunds identified in the Britt decision, Global shall file a report with the Commission and the Department reviewing the total amount disbursed and the inmate facilities to which the refunds were disbursed. This report should bring closure to the refund issue.

At the July 2, 1996 meeting, the parties indicated that they agreed to the modification to the settlement.

ORDER

1. The Commission approves the proposed settlement, attached to and made a part of this Order, with one modification: upon Global's disbursement of the unclaimed refunds identified in the Britt decision, Global shall file a report with the Commission and the Department reviewing the total amount disbursed and the inmate facilities to which the refunds were disbursed.
2. The Commission grants Global's request for a certificate of authority to provide service in Minnesota.
3. Docket Nos. P-5024/CT-94-386 and P-5024/CT-94-387 are closed.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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